

REMARKS

Claims 1-3, 5-9, 11-15, 17-21, 23, and 24 are pending in the present application. Claims 1, 7-9, 11-14, and 19 have been amended. Claims 1, 7, 13, and 19 are independent claims. The Examiner is respectfully requested to reconsider the outstanding rejections in view of the above amendments and the following remarks.

Rejection Under 35 U.S.C. § 112

Claims 1-3, 5-9, 11-15, 17-21, 23, and 24 stand rejected under 35 U.S.C. § 112, 1st paragraph, as failing to comply with the written description requirement. Specifically, the Examiner asserts that “a second threshold value” in claims 1, 7, 13, and 19 is not supported in the specification.

Independent claims 1, 7, 13, and 19 have been amended to recite a single threshold value corresponding to the size of first small region and the second small region, respectively. This is supported in the specification at, e.g., page 9, lines 11-24.

In view of the foregoing, the Examiner is respectfully requested to reconsider and withdraw this rejection.

Rejection Under 35 U.S.C. § 101

Claims 1-3, 5-9, 11-15, 17-21, 23, and 24 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

With respect to claims 1-3, 5, and 6, the Examiner asserts that these claims are nonstatutory because they are directed to a process which neither transforms the underlying subject matter to a different state or thing, nor positively tie to another statutory category. Without conceding the appropriateness of this rejection, Applicant has amended independent claim 1 to recite, “*utilizing at least one computer processor to perform the steps* [listed in the remainder of the claim].” As such, Applicant respectfully submits that such amendments make it

clear that the process of claim 1 is tied to another statutory category of invention (apparatus). Therefore, Applicant submits that claims 1-3, 5, and 6 recite a statutory process under § 101.

As to claims 7-9, 11, and 12, the Examiner asserts that the means-plus-function language in these claims introduces the possibility that the claimed image processor is a computer program per se. Applicant points out that these claims have been amended to remove the means-plus-function language. In accordance with these amendments, Applicant disavows any intent to invoke the provisions of 35 U.S.C. § 112, 6th paragraph. Furthermore, Applicant respectfully submits that claims 7-9, 11, and 12 are directed to a statutory “*apparatus*” comprising tangible elements or “*units*,” rather than a computer program per se. Therefore, Applicant submits that claims 7-9, 11, and 12 are statutory under § 101.

As to claims 13-15, 17, and 18, the Examiner asserts that the claimed “*system*” could be interpreted as a computer program per se, since the various system components could broadly be interpreted as software. The Examiner suggests amending the claims to recite actual hardware components. Applicant respectfully submits that claim 13 has been amended to recite the hardware components of a “*computer input device*” and “*at least one computer processor*” which are configured to perform the functionality recited therein. As such, Applicant respectfully submits that the “*system*” of claim 13 cannot be regarded as a computer program per se and, thus, is statutory under § 101.

In view of the foregoing, the Examiner is respectfully requested to reconsider and withdraw the § 101 rejection of claims 1-3, 5-9, 11-15, 17, and 18.

Rejection Under 35 U.S.C. § 103

Rejection based on Yamaguchi:

Claims 1-3, 5-9, 11-15, 17-21, 23, and 24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over JP Publication No. 2000-222564 to Yamaguchi (hereafter “Yamaguchi”). This rejection is respectfully traversed.

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).

However, in this rejection, the Examiner does not even assert that Yamaguchi teaches or suggests all of the claimed elements. As best understood by Applicant, the Examiner only refers to alleged teachings in Yamaguchi of **some** of the elements which are recited in **one** of the claims (claim 1). As such, Applicant must presume that the inclusion of this rejection in the Office Action was unintentional, and that the Examiner only intended to reject the claims based on the combined teachings of Ohta, Noyama, and Yamaguchi as discussed below.

In view of the foregoing, the Examiner is respectfully requested to withdraw this rejection.

Rejection based on Ohta, Noyama, and Yamaguchi:

Claims 1, 3, 5-7, 9, 11-13, 17-19, 21, 23, and 24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over EP Publication No. 0924648 to Ohta et al. (hereafter "Ohta") in view of US Patent No. 5,594,850 to Noyama et al. (hereafter "Noyama") and Yamaguchi. This rejection, insofar as it pertains to the presently pending claims, is respectfully traversed.

Applicant respectfully submits that Ohta, Noyama, and Yamaguchi, taken separately or in obvious combination, fail to teach or suggest every claimed feature. For instance, independent claims 1, 7, 13, and 19 recite the following:

"temporarily dividing the designated region into the natural-image region and a CG-image region ... wherein "

when a first small region composed of pixels having the same color as the color contained in the region other than the designated region is present in the designated region, if the size of the first small region is greater than or equal to a threshold value, the first small region is extracted from the designated region to be classified as part of the CG-image region, and

*when a second small region composed of pixels having a color different from the color contained in the region other than the designated region is present in the designated region, if the size of the second small region is **greater than or equal to the threshold value**, the second small region is not extracted from the temporary region and is to be classified as part of the natural-image region”*

(emphasis added).

Applicant submits that there is no teaching or suggestion in any of the abovementioned references of comparing the **size** of a pixel region to a threshold value in order to determine whether it should be classified as part of the natural-image region or CG-image region.

In the rejection, the Examiner relies on Yamaguchi to teach the use of a threshold operation in connection with dividing a natural-image and CG-image region. See Office Action at page 9, 1st paragraph. However, the cited portions of Yamaguchi refer to applying a threshold value to the **difference between maximum and minimum pixel luminance values** of a particular field, in order to determine whether such field belongs to a natural-image or CG-image region. See Yamaguchi at paragraphs 0008 and 0033. Yamaguchi does not teach or suggest comparing the **size** of the field to the threshold value to make this determination. Furthermore, Applicant submits that neither Ohta nor Noyama teach or suggest comparing the size of a pixel region to a threshold value.

Thus, Ohta, Noyama, and Yamaguchi, taken separately or in obvious combination, fail to teach or suggest every claimed feature. At least for this reason, independent claims 1, 7, 13, and 19 are allowable over these references. Accordingly, claims 3, 5, 6, 9, 11, 12, 17, 18, 21, 23, and 24 are allowable at least by virtue of their dependency on an allowable independent claim. Therefore, the Examiner is respectfully requested to reconsider and withdraw this rejection.

Rejection based on Ohta, Noyama, Yamaguchi, and Joshi:

Claims 2, 8, 14, and 20 stand rejected under § 103(a) as being unpatentable over Ohta in view of Noyama and Yamaguchi, and further in view of US Patent No. 5,982,381 to Joshi et al. (hereafter "Joshi"). Applicant respectfully submits that Joshi fails to remedy the deficiencies of Ohta, Noyama, and Yamaguchi mentioned above in connection with independent claims 1, 7, 13, and 19. Particularly, Joshi is merely relied upon for alleged teachings of a blurring a boundary portion between the natural-image and CG-image regions before synthesizing the regions. See Office Action at page 13. Accordingly, Applicant respectfully submits that claims 2, 8, 14, and 20 are allowable at least by virtue of their dependency on claims 1, 7, 13, and 19. Therefore, the Examiner is respectfully requested to reconsider and withdraw this rejection.

Conclusion

In view of the above amendments and remarks, the Examiner is respectfully requested to reconsider the outstanding rejections and issue a Notice of Allowance in the present application.

Should the Examiner believe that any outstanding matters remain in the present application, the Examiner is respectfully requested to contact Jason W. Rhodes (Reg. No. 47,305) at the telephone number of the undersigned to discuss the present application in an effort to expedite prosecution.

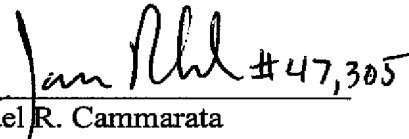
Application No. 10/669,718
Amendment dated March 6, 2009
Reply to Office Action of December 9, 2008

Docket No.: 2091-0297P

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Dated: March 6, 2009

Respectfully submitted,

By  #47,305
for Michael R. Cammarata
Registration No.: 39,491
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicant